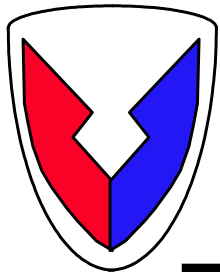


**CIVILIAN PERSONNEL ADVISORY
CENTER**



Department of Army Fair Labor Standards Act Consistency Review



POINTS OF REFERENCE



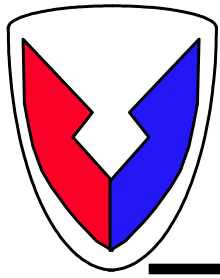
**Fair Labor
Standards Act**

**Section 201-219
Title 29, USC**



Title 5, CFR

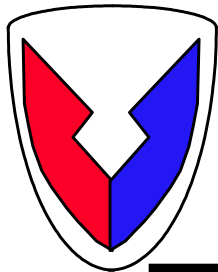
Part 551



FLSA OVERVIEW



- **Provides minimum standards for wages and overtime entitlements**
- **Specifies procedures for work-time compensation**
 - **Nonexempt - covered by the minimum wage and overtime provisions of the Act**
 - **Exempt - not covered by the minimum wage and overtime provisions of the Act**



FLSA DETERMINATION

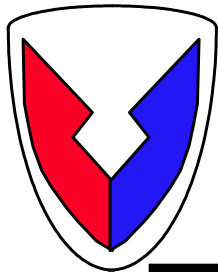


**Supervisor
assigns
duties
and classifies
position**

ROLES

**CPOC reviews
job and
makes
"E" or "N"
determination**

- **Each employee is assumed to be nonexempt**
- **Burden of proof rests with agency**
- **Exemption criteria should be narrowly construed**
- **If there is reasonable doubt,**



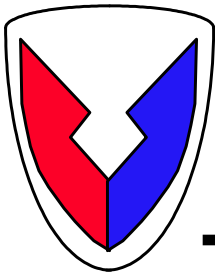
GENERAL PRINCIPLES

General Schedule Employees

- **GS-4 or below - nonexempt**
- **GS-5 or above - exempt only if the employee is an executive, administrative, or professional employee as defined in 5 CFR 551**

Federal Wage System Employees

- **Nonsupervisory employees are nonexempt**
- **Supervisory employees are exempt only if they meet the executive exemption defined in 5 CFR 551**



PRACTICAL IMPLICATIONS



Nonexempt Employees

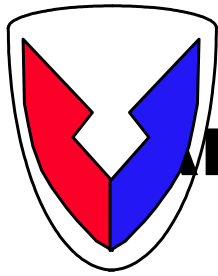


- Entitled to overtime pay at 1.5 times their regular pay
- Must receive overtime pay unless

Exempt Employees compensatory

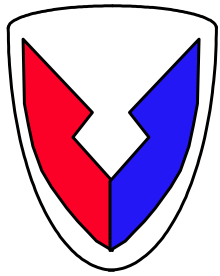


- Overtime pay is capped at 1.5 times the GS-10 step 1 pay rate
- If basic pay is GS-10 step 10 or below, employee chooses overtime or comp time
- If basic pay is above GS-10 step 10, management chooses overtime or comp time



Army-Wide Consistency Review

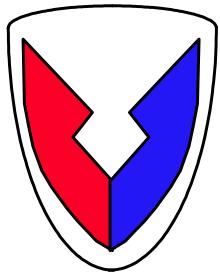
- **DA conducted a paper review of all GS-7's through GS-12's**
 - **litigation/payout at Defense Logistics Agency**
 - **database clean-up for Modern DCPDS**
- **Changes identified**
 - **Exempt to Nonexempt**
 - **Nonexempt to Exempt**
- **FLSA not subject to collective bargaining but is subject to I&I**
- **Must give notice of the changes and bargain over I&I if requested.**



Higher HQ Guidance



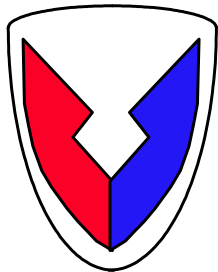
- **MSC commanders required to inform lower echelons of requirements and expectations**
- **Local commanders should proceed in concert at RSA**
- **Challenges to Army findings must be submitted in writing to CPOCMA**



Higher HQ Guidance - cont.



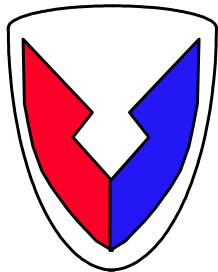
- **New job description must be prepared for those cases where info was too “scanty” for CPOCMA to evaluate**
- **Biweekly reports to AMC**
- **Activities must report any grievances or settlements and/or backpay claims associated with the review**



Implementation



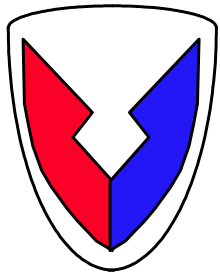
- **Bargaining obligations must be met first**
- **After contractual obligations met**
 - **Commander sends list of requested changes to servicing CPOC for immediate action**
 - **CPOC processes by earliest possible date after receipt and produces SF-50 for downloading**
 - **CPOC to file SF-50 in OPF**
- **CPAC assures affected supervisors are cognizant of overtime requirements**



Employee Claims



- **FLSA Claims**
 - exemption determination
 - overtime pay
- **Bargaining unit employees use:**
 - negotiated grievance procedure
 - if not satisfied, arbitration
- **Nonbargaining unit employees use:**
 - administrative grievance procedure
 - if not satisfied, OPM review
- **Nonbargaining unit employees can file directly with OPM**



Summary



- **Challenges must be submitted to DA**
- **Supervisors will notify employees of changes**
- **CPAC will provide further training on FLSA upon request**